

Scott A. Kronland (SBN 171693)
Stacey M. Leyton (SBN 203827)
Eileen B. Goldsmith (SBN 218029)
Danielle E. Leonard (SBN 218201)
Robin S. Tholin (SBN 344845)
James Baltzer (SBN 332232)
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Tel. (415) 421-7151
Fax (415) 362-8064
skronland@altber.com
sleyton@altber.com
egoldsmith@altber.com
dleonard@altber.com
rtholin@altber.com
jbaltzer@altber.com

Attorneys for Plaintiffs

[Additional Counsel not listed]

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO;
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO; et al.,

Plaintiffs,

V.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al..

Defendants.

Case No. 3:25-cv-01780-WHA

DECLARATION OF DR. ANDREW FRASSETTO

DECLARATION OF DR. ANDREW FRASSETTO

I, Dr. Andrew Frassetto, hereby declare as follows:

1. I am a member of AGFE Local 3403, and, until February 18, 2025, I was an employee of the National Science Foundation (NSF). I make this statement based on personal knowledge, information, and belief and if called as a witness could and would testify competently thereto.

2. I received a Ph.D. in Geosciences from the University of Arizona in 2009, with a dissertation on “Teleseismic Studies of the North American Cordillera: Evaluating the Changing Structure, Composition, and Fabric after Subduction.” I subsequently conducted two years of postdoctoral research at the University of Copenhagen, and then worked for thirteen years at the Incorporated Research Institutions for Seismology (IRIS), which became the EarthScope Consortium, overseeing projects within the NSF Geodetic Facility for the Advancement of Geoscience (GAGE) and NSF Seismological Facility for the Advancement of Geoscience (SAGE).

3. I began working at NSF on September 9, 2024, as a permanent-track Program Director and group lead for the Division of Earth Sciences Instrumentation and Facilities (EAR-IF) program.

4. The opportunity to join NSF and give back to the science community and the next generation of US-based scientists was an honor and a privilege for me. I participated in several NSF research projects as a student, and my Ph.D. work was largely supported by a NSF Graduate Research Fellowship. Through those experiences I was able to witness NSF's unique role in advancing research and education in science, technology, engineering, and mathematics, and I strongly believe in its mission.

5. The EAR-IF program that I worked in provides funding for around 100 projects that use specialized, modern scientific instrumentation at teaching and research institutions across the United States. These instruments range from laboratory microscopes to radar surface mappers to deployable underground sensors, and are used for projects that advance research across the earth sciences. These projects include identifying critical minerals in mine waste, understanding how grassland soils respond to wildland fires, or characterizing what the Earth's atmosphere and climate were like millions of years ago to provide perspective on our planet and others. The instruments funded by the EAR-IF program are often also made available to other scientists at the same

1 institution or as national open-access research facilities to support research beyond the specific
 2 projects awarded funding.

3 6. The EAR-IF program makes and oversees more than \$20 million a year of awards to
 4 outside institutions, and my NSF team worked creatively to maximize the return on this investment
 5 and the advancement of critical science.

6 7. The EAR-IF program currently has active awards to institutions in California that total
 7 more than \$13 million over multi-year commitments.

8 8. On February 13, 2025, I had a progress review meeting with my supervisor, Dena
 9 Smith-Nufio, the Division Director of Earth Sciences. At that meeting, I was told that my
 10 performance was at a very high level and given a written progress review, which included statements
 11 that:

- 12 • “His primary roles include oversight of the EAR Instrumentation and Facilities
 13 Program and several of the division’s mid-scale community facilities, which makes his
 14 role mission critical.”
- 15 • “He has already demonstrated an outstanding ability to balance the various aspects of
 16 his job responsibilities and is highly effective at organizing and completing all his
 17 work in an accurate and timely manner.”
- 18 • “He has been an outstanding contributor to the division, directorate and the agency.”

19 A true and correct copy of the Progress Review I received on February 13, 2025 is attached hereto as

20 **Exhibit A.**

21 9. Five days later, my employment was terminated “based on your performance.”

22 10. At 9:01 am on the morning of February 18, many of my colleagues and I received an
 23 email directing us to attend a meeting at 10 am, signed by Star Anderson, Acting Division
 24 Director/Deputy CHCO Division of Human Resource Management.

25 11. I was present for the meeting in person at the NSF headquarters in Alexandria,
 26 Virginia, but the meeting was in a hybrid format, with many employees joining by Zoom.

27 12. Hybrid meetings are very common at NSF, as employees work in many different
 28 locations. To facilitate accessibility and disability accommodations, NSF meetings held over Zoom

1 have automated closed captions and transcriptions provided by default. I have participated in many
 2 hybrid meetings at NSF that incorporate those transcription tools.

3 13. The transcript attached hereto as **Exhibit B** is consistent with my recollection of the
 4 February 18, 2025 meeting and the tools we regularly use to transcribe meetings. I have reviewed the
 5 transcript and it accurately records what transpired at the meeting, with redactions to omit the names
 6 of terminated employees.

7 14. Five members of NSF management presented at the meeting: Micah Cheatham, Chief
 8 Management Officer; Karen Marrongelle, Chief Science Officer; Sarita Marshall, Chief, Payroll and
 9 Benefits Branch, Division of Human Resources; Angel Williams, General Counsel; and Wonzie
 10 Gardner, Chief Human Capital Officer.

11 15. All statements made by NSF management and by the employees who attended the
 12 meeting in person appear in the transcript in Exhibit B as coming from “E3410 x8539 Conf Room.”

13 16. During the meeting, Micah Cheatham told all the terminated employees that NSF did
 14 not make the decision to terminate the employment of probationary employees. Instead, he stated that
 15 NSF had previously chosen to retain probationary employees, but late Friday night, NSF received
 16 direction to terminate our employment from the Office of Personnel Management (OPM). Those
 17 statements appear from roughly 10:20:37–10:21:09 on the transcript in Exhibit B.

18 17. Micah Cheatham further informed us that the cause that would be listed in our
 19 termination letters was “boilerplate” that came directly from OPM. He told us NSF was only
 20 provided the options to terminate probationary employees based on performance or conduct and that
 21 terminations based on conduct would not have allowed any of us to apply for unemployment benefits.
 22 Those statements appear from roughly 10:26:10–10:26:22 on the transcript in Exhibit B.

23 18. Micah Cheatham was also the speaker in the conference room during, but not limited
 24 to, the times recorded on the transcript as 10:02:27–10:04:47; 10:06:35–10:06:55; 10:08:20–
 25 10:09:18; 10:22:14–10:22:33; 10:23:02–10:23:33; and 10:31:19–10:31:27. The statement that
 26 appears on the transcript at 10:15:28 reading “[t]his is not a decision the agency made. This is a
 27 direction we received, first of all,” was made by Micah Cheatham.

1 19. The speaker in the conference room during, but not limited to, the times recorded on
 2 the transcript from 10:04:56–10:06:21 and 10:09:23–10:10:23 was Sarita Marshall.

3 20. Wonzie Gardner was the speaker in the conference room during, but not limited to, the
 4 times recorded on the transcript from 10:18:52–10:19:31, including for the statements reading that
 5 “we have no choice,” that NSF was “following what we’re getting from OPM” and that “We are
 6 following orders.”

7 21. No one at the meeting stated that my performance or the performance of any of the
 8 fired probationary employees was deficient.

9 22. Following the meeting, on February 18, I was officially terminated from my position
 10 and given a letter stating that the reason was “[t]he Agency finds, based on your performance, that
 11 you have not demonstrated that your further employment at the Agency would be in the public
 12 interest.” A true and correct copy of the letter is attached hereto as **Exhibit C**.

13 23. Nearly 170 of my colleagues were likewise terminated, and to the best of my
 14 knowledge, all terminated probationary employees were provided with the same letter.

15 24. These firings are certain to have a severe negative impact on NSF’s work. NSF
 16 employs roughly 1,500 people, of whom more than 10 percent have been terminated. These staff cuts
 17 will be extremely damaging to all of the programs at NSF and to the projects that NSF funds. For
 18 example, the review of proposals submitted for awards in the EAR-IF program will be immediately
 19 disrupted by my termination. To the extent that the program is able to continue, the work will be
 20 shouldered by a much smaller team, and crucial support for scientific projects across the country will
 21 likely be significantly delayed.

22 25. Being terminated also severely affects my life and my family. In choosing to work for
 23 NSF, I was attracted to the stability and benefits provided by the position. Having a federal job with
 24 access to healthcare benefits meant that my wife, who is a dedicated and talented early childhood
 25 educator who teaches at a local pre-kindergarten, could keep working at her job. The flexible hours
 26 also meant that I could schedule around extracurricular activities for our 7-year-old daughter, and I
 27 could serve as the President of her Title 1 school’s Parent-Teacher Organization.

1 26. Based on the information I was given at the February 18, 2025, meeting, our family
2 will lose access to health care benefits on March 25, 2025.
3
4

5 I declare under penalty of perjury under the laws of the United States that the foregoing is true
6 and correct. Executed this 22nd day of February 2025 in Alexandria, Virginia.
7
8


Dr. Andrew Frassetto

EXHIBIT A

SMITH, DENA M.2/13/2025 11:59:13 AMProgress ReviewReleased

Dr. Andrew Frassetto currently serves as a program director in the Division of Earth Sciences (EAR) within the Directorate for Geosciences (GEO). His primary roles include oversight of the EAR Instrumentation and Facilities Program and several of the division's mid-scale community facilities, which makes his role mission critical. Dr. Frassetto has been an outstanding program director, and he has taken the lead role in overseeing this important and complicated portfolio for the division. Dr. Frassetto came to NSF with a unique skill set in interdisciplinary scientific research, experience in the oversight of large, complex projects and coordination of field-based logistics. Since joining NSF, he has taken on projects based on his own initiative and further expanded his skill set and completed trainings that have focused on NSF's new Project Management and Research Infrastructure competencies. He has already demonstrated an outstanding ability to balance the various aspects of his job responsibilities and is highly effective at organizing and completing all his work in an accurate and timely manner.

Dr. Frassetto also has excellent oral and written communication skills. He has participated in multiple in-person and virtual engagements with the scientific community to help them navigate the merit review and awards management processes. These engagements have included one-on-one interactions, presentations at meetings, and webinars and he always creates a favorable impression of NSF with the scientific community. In addition, he has started to develop partnerships with other federal agencies and has led several successful virtual meetings aimed at facilitating stronger relationships with our partners. Finally, he has served on cross-division and cross-directorate working groups and has been a key member of the division's communications team.

EAR has a large and diverse portfolio of research resource support, that includes everything from smaller instruments to mid-scale facilities to major research infrastructure projects. Dr. Frassetto's work on this portfolio has been outstanding and he has brought important experience to the role and has demonstrated highly competent project management and oversight. He is a program director who has needed minimal supervision and eagerly seeks special assignments at higher levels of difficulty. He has been an outstanding contributor to the division, directorate and the agency.

EXHIBIT B

[E3410 x8539 Conf Room] 09:58:35

I haven't know. So you find a job.

[E3410 x8539 Conf Room] 09:58:46

I would like a conference.

[E3410 x8539 Conf Room] 09:59:00

Yeah, that is fair.

[E3410 x8539 Conf Room] 09:59:06

Hi.

[E3410 x8539 Conf Room] 09:59:42

We're working now.

[E3410 x8539 Conf Room] 10:01:13

Really?

[E3410 x8539 Conf Room] 10:01:22

They're uncomfortable. I know this is important.

[E3410 x8539 Conf Room] 10:02:21

Are we ready? Yes.

[E3410 x8539 Conf Room] 10:02:27

You've been invited here today because you were either a probationary employee or you are an expert on intermittent appointment.

[E3410 x8539 Conf Room] 10:02:36

We've asked you here today to tell you face to face that we will be terminating your employment at the end of the day today.

[E3410 x8539 Conf Room] 10:02:44

It's an exceptionally difficult decision. We've been directed by the administration to remove all term probationary employees. We have identified an extremely small number that we identified as mission critical we were not given any real significant discretion in that area.

[E3410 x8539 Conf Room] 10:03:05

Today at 11 o'clock, each of you will receive a termination letter by email.

[E3410 x8539 Conf Room] 10:03:11

At 1 p.m., you will lose access to the network And at the end of the day today, you'll be terminated.

[E3410 x8539 Conf Room] 10:03:19

Your letter provides a summary of actions that we need you to take today.

[E3410 x8539 Conf Room] 10:03:23

It also describes your rights to appeal. At a high level, you have the ability to appeal this termination.

[E3410 x8539 Conf Room] 10:03:32

If you are a probationer, you have the ability to appeal your termination to the merit systems protection board the Office of Special Counsel or the Equal Employment Opportunity Commission.

[E3410 x8539 Conf Room] 10:03:43

You can choose one. The first one that you apply to will be the one that you choose. You cannot do all three.

[E3410 x8539 Conf Room] 10:03:50

If you're an expert, you do not have an opportunity to appeal.

[E3410 x8539 Conf Room] 10:03:55

At the end of this meeting, you should coordinate with your supervisor to transfer files.

[E3410 x8539 Conf Room] 10:04:03

Close out your active work. Pack your personal belongings if you're in the building.

[E3410 x8539 Conf Room] 10:04:08

You will lose access at one to the system. You do not have to leave until the end of the day.

[E3410 x8539 Conf Room] 10:04:14

Once you've completed your assigned tasks. You will be released. You can leave at will.

[E3410 x8539 Conf Room] 10:04:20

You will be paid for the full day, no matter what time you leave.

[E3410 x8539 Conf Room] 10:04:28

You ready? You have one more thing. You have the option to resign in lieu of termination.

[E3410 x8539 Conf Room] 10:04:34

That may be beneficial to you. If you choose to resign, you will not be eligible for unemployment.

[E3410 x8539 Conf Room] 10:04:40

However, if asked when you apply for future positions, you will be able to say that you were not terminated.

[E3410 x8539 Conf Room] 10:04:47

From a previous position.

[E3410 x8539 Conf Room] 10:04:56

So for those of you that have federal benefits. Sorry. Okay. For those of you that have federal benefits, your health insurance will be terminated at the end of the pay period.

[E3410 x8539 Conf Room] 10:05:07

You will have a free 31-day extension of coverage. We will send you all communications for those that are online. I have someone from my benefits team that will drop a link to a separations booklet.

[E3410 x8539 Conf Room] 10:05:18

We will have a link set up. Where you can drop us information. So if you want to sign up for TCC, which is similar to COBRA, You will be able to do that after today.

[E3410 x8539 Conf Room] 10:05:29

That email requesting to resign that Micah alluded to, that needs to go to benefits at nsf.gov by 1159 p.m. Today.

[E3410 x8539 Conf Room] 10:05:37

The plan is for us to also mail you your letters.

[E3410 x8539 Conf Room] 10:05:40

You will also get a copy of your OPF. With your last SF 50, you will get a printed benefits booklet that has information on how you reach out to us after you have separated.

[E3410 x8539 Conf Room] 10:05:51

My team was always available for questions at benefits@nsf.gov. After this, the biggest thing I think right now is the health insurance piece of it, which you will again have a 31 day extension of coverage.

[E3410 x8539 Conf Room] 10:06:03

Life insurance, you will have an opportunity to convert to a non-group policy. Most employees do not do that because it's just term insurance.

[E3410 x8539 Conf Room] 10:06:11

Your federal dental and vision insurance plan, they will terminate at the end of the pay period. There is no extension for coverage under FedVIP.

[E3410 x8539 Conf Room] 10:06:21

If you have FSA with us, you will be able to claim expenses all the way through next year, but the expenses will have to stop effective today. So any claims after today will be denied.

[E3410 x8539 Conf Room] 10:06:35

If you are online and you are not able to return to the building.

[E3410 x8539 Conf Room] 10:06:39

If you're online and you are able to return to the building by 1 p.m, you may return to retrieve your personal belongings and turn in your computer.

[E3410 x8539 Conf Room] 10:06:49

And badge if you are not. If you're not in the building and you're not able to return by 1 p.m.

[E3410 x8539 Conf Room] 10:06:55

We will send you a prepaid box so that you can return your government equipment and we will pack your belongings and send them to your home of record.

[E3410 x8539 Conf Room] 10:07:04

For those that are in the building. If your IT specialist is not on site, you can drop your laptop down to the help desk.

[E3410 x8539 Conf Room] 10:07:10

We ask that you put your badge. You can leave it with the badging office, which is right next to the help desk. Again, for those online, work with your IT specialist. As long as your supervisor is informed, they can coordinate getting you the prepaid package.

[E3410 x8539 Conf Room] 10:07:29

We greatly appreciate your service and your contributions to NSF. This is a difficult decision for everyone. We thank you for your service.

[E3410 x8539 Conf Room] 10:07:38

If you would like to answer questions, we'll hear from the union president And then if you'd like to ask questions after that.

████████ 10:07:49

Micah, a lot of people joined a little bit late. So can you repeat?

████████ 10:07:54

Just the general advice.

[E3410 x8539 Conf Room] 10:07:54

Exactly. We're about to ask that some folks are still joining the mic on?

[E3410 x8539 Conf Room] 10:08:01

It's on, well, we can't hear the people online either. So can you boost the volume a little bit?

[E3410 x8539 Conf Room] 10:08:07

Please. Can you hear me? Can you hear me? Many folks are joining.

[E3410 x8539 Conf Room] 10:08:15

They're in the waiting room. Yeah, they're a bit late, but would it be possible for you to repeat?

[E3410 x8539 Conf Room] 10:08:20

This information. Yes. We've invited Most probationary employees and all experts today to announce that your employment will be terminated at the end of the day today.

[E3410 x8539 Conf Room] 10:08:31

We were able to This is in executing.

[E3410 x8539 Conf Room] 10:08:36

Government-wide guidance from the administration. I'm sure you've read in the news that all agencies are terminating probationary employees.

[E3410 x8539 Conf Room] 10:08:44

We're at the same time terminating expert employees who are basically at will intermittent employees.

[E3410 x8539 Conf Room] 10:08:50

This is an extremely difficult decision. But we have limited discretion.

[E3410 x8539 Conf Room] 10:08:56

We will cut off you at 11 o'clock. You will receive an email with a termination letter that will include your rights to appeal, as well as instructions for the remainder of the day.

[E3410 x8539 Conf Room] 10:09:06

We'll cut off IT access at one o'clock, but you're not required to leave at one.

[E3410 x8539 Conf Room] 10:09:11

Will be released once you provide for the transfer of your files and active work.

[E3410 x8539 Conf Room] 10:09:16

And you will have the rest of the day to day.

[E3410 x8539 Conf Room] 10:09:18

Say your goodbyes, pack your personal belongings if you're in the building.

[E3410 x8539 Conf Room] 10:09:23

That is all. Sarita, would you mind explaining the benefits yes thank you so for those that have health insurance, your health insurance Excuse me, your health insurance will terminate at the end of the pay period. That is this Saturday. You will have a free 31 day extension of coverage, at which point you will be eligible to apply for what we call TCC, which is similar to COBRA.

[E3410 x8539 Conf Room] 10:09:47

That COBRA coverage, you're eligible to maintain that for 18 months.

[E3410 x8539 Conf Room] 10:09:52

And information will be provided to everyone. Everyone will get something mailed to their address on file that has a printed booklet of information on everything, lump sum payments for annual leave.

[E3410 x8539 Conf Room] 10:10:03

Everything. Dental and vision insurance, that does separate, that terminates at the end of this pay period. So that's this Saturday. There is no extension under the law for FedVIP coverage.

[E3410 x8539 Conf Room] 10:10:13

Everything will be provided. We will also be providing you a copy of your OPF.

[E3410 x8539 Conf Room] 10:10:17

We do know that you don't have much time to get everything. So we will be providing copies of OPFs.

[E3410 x8539 Conf Room] 10:10:23

Along with your last benefits form that shows the termination of coverage.

[E3410 x8539 Conf Room] 10:10:31

You indicated that employees can resign. Yes. So you have that. Yes, absolutely. What is the difference in terms of benefits or anything? There's no difference in benefits as far as resignation versus this removal action. So some employees prefer to resign. If you send us an email saying you prefer to resign, that email has to be received.

[E3410 x8539 Conf Room] 10:10:53

By 11.59 p.m. Tonight at the benefits at nsf.gov email alias.

[E3410 x8539 Conf Room] 10:10:59

The personnel action will not show a removal. It will instead show resignation in lieu of involuntary action.

[E3410 x8539 Conf Room] 10:11:07

With that, you cannot file unemployment benefits.

[E3410 x8539 Conf Room] 10:11:19

You guys have a question online. Hey, [REDACTED]

[REDACTED] 10:11:24

Yes, I'll start calling on people. [REDACTED] do you want to ask your question?

[REDACTED] 10:11:31

Yeah, so my SF50 states that I am a permanent Fed.

[REDACTED] 10:11:38

My letter of offer, remember you guys recruited me to come back here to NSF.

[REDACTED] 10:11:44

My letter of offer clearly stated a 12-month probationary period. I before this new rule received a backdated tenure to 2023.

[REDACTED] 10:11:58

So by all of the legal documents here, I am not probationary I don't understand how this is illegal.

[REDACTED] 10:12:06

I have asked both my division directors And my directorate, but nobody has responded to any of my emails.

[REDACTED] 10:12:13

I think you do owe it to us to explain how this is legal how is this possibly legal to change your work status unilaterally in a legal contract, which is my letter of offer.

[REDACTED] 10:12:27

Which I left my university to come here. You recruited me to come here.

[REDACTED] 10:12:33

How is that legal? You do owe it to us to explain how that is legal. What is the legal underpinning of that determination?

[E3410 x8539 Conf Room] 10:12:41

Exactly the same situation for me and many others. It has been NSF's longstanding practice to allow employees on an accepted service appointment Well, to communicate to employees on accepted service appointment that their probation ends after 12 months.

[E3410 x8539 Conf Room] 10:12:59

That is not supported by law or regulation. I would encourage you i would encourage you When you receive...

[REDACTED] 10:13:06

It is written in the contract and in my SF 50.

[REDACTED] 10:13:11

Are you saying that what NSF says in writing is not We can change it at any time.

[REDACTED] 10:13:19

And you don't care about us.

[E3410 x8539 Conf Room] 10:13:23

No, nobody said that I don't care about you. I care very much. This is... You seem to be taking an extra split at people who have SF50s that say they're probate that they're off probation and tenure.

[E3410 x8539 Conf Room] 10:13:35

Why are you sleeping at those employees don't have to do that. We have documentation in our files.

[E3410 x8539 Conf Room] 10:13:41

The documentation is incorrect. The practice is not consistent with law and regulation.

[REDACTED] 10:13:47

Name the law.

[E3410 x8539 Conf Room] 10:13:47

When you receive your termination letter, it will include options for you to appeal this termination, I would encourage you to make that argument there.

[E3410 x8539 Conf Room] 10:14:00

You made that argument on our behalf. There's no one to make the argument to. It is not consistent with law and regulation.

[REDACTED] 10:14:10

Which law?

[E3410 x8539 Conf Room] 10:14:11

Also, follow legal orders.

[E3410 x8539 Conf Room] 10:14:19

The union has a question. IPAs, who are also our colleagues and we care about them. Most of them have jobs back in the universities.

[E3410 x8539 Conf Room] 10:14:32

█████ You've NSF is being asked to reduce the headcount of the agency.

[E3410 x8539 Conf Room] 10:14:40

Why did you decide to Who would those of us who are most vulnerable and who have no jobs to go to?

[E3410 x8539 Conf Room] 10:14:48

At risk while IPAs who have jobs, most of them to go back to are being spared. I just wanted to state that IPAs aren't federal employees.

[E3410 x8539 Conf Room] 10:14:58

So they're not subject to the same actions as federal employees. They're paid through grants.

[E3410 x8539 Conf Room] 10:15:05

They're not paid out of appropriated dollars in the same respect.

[E3410 x8539 Conf Room] 10:15:09

So that's what I would just say with that. They're not similarly situated. They look similarly situated and I can appreciate that because I'm sure we're working alongside them and I understand that. The same argument can be made for contractors and other things.

[E3410 x8539 Conf Room] 10:15:21

But IPAs are not federal employees so they can't be probationers because they're not feds.

[E3410 x8539 Conf Room] 10:15:28

So there was no limited discretion. This is not a decision the agency made. This is a direction we received, first of all. Second of all, this is the first of many forthcoming workforce reductions.

[E3410 x8539 Conf Room] 10:15:42

So we do have some hands on one.

████████ 10:15:52

████, you would like to ask your question?

████████ 10:15:56

I'm going to follow up with what █████ said and with what many of my colleagues have been asking all of you.

████████ 10:16:03

Which is, you can tell us, Micah, that it's the law and regulation But all of you sitting up there who gave us the offer letters that brought us to NSF, we trusted you.

████████ 10:16:15

That the word you're putting in our offer letters, that the word that you're putting in our SF50s is what brought us to NSF.

████████ 10:16:23

We did our one-year trial periods. I have two outstanding evaluations.

████████ 10:16:29

In my time here at NSF. We did what you put on our offer letters, all of you sitting up there who run this agency, who are supposed to follow laws and regulations, but haven't. But who's getting terminated? We are getting terminated.

████████ 10:16:45

I knew of this issue one month ago. I have been begging HRM. I have been begging all of you to give us answers. Why did you make this decision?

████████ 10:16:56

You know what happened? Radio silence. No one put anything on paper. No one put anything on an email. No one even bothered to reach out to staff and say, hey.

████████ 10:17:06

You are in this situation. Your job is at risk. This is the first time anyone in leadership is engaging with staff whose terms of employment have been changed at the last minute.

████████ 10:17:20

You are presenting us as trophies in front of OPM. I don't want to hear anything about how you are sad.

████████ 10:17:26

How you feel bad for everyone who's losing their job today.

████████ 10:17:30

Many of us left our research careers because we wanted to come serve the mission of this agency.

████████ 10:17:35

We have been screwed by the incompetence of the people who put one year trial periods on our dates, didn't bother communicating that a policy change has taken place. And now we are completely out of jobs as of one o'clock today.

████████ 10:17:48

If you can go to sleep at night. Knowing that this is what you all did, you screwed people, hardworking people who trusted the word of this agency left their careers wherever they came from That's on all of you. Take some accountability. Don't tell us it's the law and regulation.

████████ 10:18:06

You put those things in writing for all of us.

[E3410 x8539 Conf Room] 10:18:12

Okay. Go ahead. Question in the room.

[E3410 x8539 Conf Room] 10:18:19

We're trying to move on. Off the session and have leadership for that.

[E3410 x8539 Conf Room] 10:18:27

Yes. Can you speak to the rumors of Wozny resigning so he would not be party to this?

[E3410 x8539 Conf Room] 10:18:34

What? Yeah, Wazi, the rumor is he took the fork in the road so he wouldn't have to be part of this The show. Oh, did you take the fork? Yes, I did. Let me tell you the reason why I did, okay? I was scheduled to retire on February 28th. That's never been changed.

[E3410 x8539 Conf Room] 10:18:52

I sent a letter to my folks one January. Okay, let me tell you also, the reason I'm in this room is because I care about each and every one of you.

[E3410 x8539 Conf Room] 10:19:00

A statement was made a minute ago the NSF doesn't care. Everyone on this table cares about this. We've been wrestling this for a long time.

[E3410 x8539 Conf Room] 10:19:08

When Micah says law, when angel says law, we have no choice for following what we're getting from OPM.

[E3410 x8539 Conf Room] 10:19:12

Let me tell you one thing. There's nobody up here nobody has been working very hard this time we can last three months to try to do this. We knew something was coming.

[E3410 x8539 Conf Room] 10:19:23

We are following orders. We are part of the executive branch. We follow that. I apologize for people that have made life-changing career moves.

[E3410 x8539 Conf Room] 10:19:31

I get that. We understand that. We really, really understand that this is not easy.

[REDACTED] 10:19:38

Onesie, what account? One second.

[E3410 x8539 Conf Room] 10:19:38

This is not easy at all. Let me tell you this. Excuse me. This is not easy at all.

[E3410 x8539 Conf Room] 10:19:42

Excuse me?

[REDACTED] 10:19:43

I hear you. One, help me understand this. What accountability is anyone in leadership taking for lying to people who came to NSF being told that you're on board.

[E3410 x8539 Conf Room] 10:19:52

[REDACTED] let me correct you, [REDACTED] It wasn't a lie when we told you what we did. It wasn't a lie.

[E3410 x8539 Conf Room] 10:19:59

I'm learning this just like you are. Okay, it's not a lie, [REDACTED].

[E3410 x8539 Conf Room] 10:20:03

Yeah, I would just say, I think, I mean, um. I think people that made those decisions thought it was accurate at the time.

[E3410 x8539 Conf Room] 10:20:12

And they were either misinformed or they just didn't get it right. I mean, to be honest with you. So I don't think they misled people. I don't think they intentionally wanted to harm people. They had a policy, but it was not based on

[E3410 x8539 Conf Room] 10:20:26

The law. Yeah, I think they're uh they became informed very recently.

[E3410 x8539 Conf Room] 10:20:37

We did. In the last two weeks. Up until Friday. Yes. We were told by OPM it was the agency's discretion whether to remove probations or not.

[E3410 x8539 Conf Room] 10:20:49

We chose to retain them all. Last Friday night.

[E3410 x8539 Conf Room] 10:20:54

They gave direction to there was some direction that was given to cabinet level agencies. And so you saw those actions taking place at the end of last week.

[E3410 x8539 Conf Room] 10:21:04

But the directions we received were it was our discretion. And late, late Friday night.

[E3410 x8539 Conf Room] 10:21:09

They told us that they directed us to remove probationers. That is why we did not address it, because at the time it did not need to be addressed. So are you saying we are being fired on decisions by OPM and not by the agency? Opm has no authority to fire us. They are communicating the direction of the administration. And I want to go back.

[E3410 x8539 Conf Room] 10:21:33

Wansie Gardner has served 43 years in the military and civilian service.

[E3410 x8539 Conf Room] 10:21:39

He's not sneaking out early to avoid difficult decisions. He is honorably served.

[E3410 x8539 Conf Room] 10:21:46

For longer than some of us have been alive. So just remember that.

[E3410 x8539 Conf Room] 10:21:52

I just heard that.

[REDACTED] 10:21:52

I'm not sure if you can hear me, but all the remote people were only able to join about four minutes ago so we are just we don't even know the context of what's happening yet because no link was sent until four minutes ago.

[REDACTED] 10:22:04

Could you please explain to us

[E3410 x8539 Conf Room] 10:22:08

Yeah, Micah can repeat it. Again.

[E3410 x8539 Conf Room] 10:22:14

Yes, we have asked all most probationers and all experts to join this meeting today to announce that you will be terminated.

[E3410 x8539 Conf Room] 10:22:22

We were directed last to effective today. We were directed last Friday by OPM to terminate all probationers except for a minimal number of mission critical probationers.

[E3410 x8539 Conf Room] 10:22:33

We're taking the opportunity to also terminate experts who are intermittent at-will employees.

[REDACTED] 10:22:42

[REDACTED] quick question for you. When it comes to being identified as mission critical. What level of discretion was given there being someone that knows that they were designated as mission critical but still being terminated what sort of what sort of

[REDACTED] 10:22:59

Insight can you offer?

[E3410 x8539 Conf Room] 10:23:02

Mission critical determination, first of all, it is exceptionally small number that we're permitted to have. Second of all, we looked at three things. We asked who was mission critical and more than half of people were identified as mission critical and that was too many. So we looked at three things.

[E3410 x8539 Conf Room] 10:23:18

Whether you determine mission critical how long a federal service you had, understanding that a large number of probationers had a lot of temporary federal service that does not count towards the probation, but nevertheless.

[E3410 x8539 Conf Room] 10:23:33

Honorable service in the federal government. And the third thing we looked at was how close people were to the end of their probationary period. There's a combination of those factors were used to determine.

[E3410 x8539 Conf Room] 10:23:43

You just said that you were taking

[REDACTED] 10:23:43

Thank you.

[REDACTED] 10:23:53

The conference room is muted. We can't hear online.

[REDACTED] 10:24:03

I have a question that has been asked a few times, and this is for this group.

[E3410 x8539 Conf Room] 10:24:07

Excuse me.

[REDACTED] 10:24:08

Can you explain what the timeline for the final paycheck is and if there will be any severance?

[E3410 x8539 Conf Room] 10:24:14

Okay, so... I'm pulling up my account. Sorry. Pulling up my calendar now.

[E3410 x8539 Conf Room] 10:24:19

There is no severance with this. Because of the years of service and it's a probationary trial period termination. So there is no service package with this.

[E3410 x8539 Conf Room] 10:24:28

You're going to get your last paycheck on time. So that would be for most people next Friday. And then two pay periods from that.

[E3410 x8539 Conf Room] 10:24:36

You will get your annual leave lump sum payment. So if you have credit hours.

[E3410 x8539 Conf Room] 10:24:40

Comp time. Annual leave, you will get another check with that lump sum payment in it and you will get an LES that has that payment amount on there as well.

[E3410 x8539 Conf Room] 10:24:50

And again, we're going to mail everything out so that you can communicate with us.

[E3410 x8539 Conf Room] 10:24:53

After you're gone. I just heard that.

[E3410 x8539 Conf Room] 10:25:00

They wanted to close this session soon. I asked management to please answer the questions of my colleagues, I think they deserve that their service and their sacrifice. And I would also ask my colleagues that as uh as bad as you feel, ask any question you have to ask, but please

[E3410 x8539 Conf Room] 10:25:22

Be polite. I don't find another word to say it.

[E3410 x8539 Conf Room] 10:25:28

If you have a question, you can go to the mic.

[E3410 x8539 Conf Room] 10:25:35

Good here? So I just want to make sure that i understand The letter that we'll be receiving in a couple minutes is does it are we all getting the same cause for termination is that individual for each person? I just want to better understand

[E3410 x8539 Conf Room] 10:25:56

I understand, obviously. Broader thing is that it's being directed by OPM, but the technicality in the letter, what's the reason? Just as we contemplate resignation versus resignation versus the letter.

[E3410 x8539 Conf Room] 10:26:10

The cause comes from boilerplate we received from OPM. The cause says that the agency finds based on your performance that you have not demonstrated that your further employment at the agency would be in the public interest.

[E3410 x8539 Conf Room] 10:26:22

That is the only thing it says. The options were performance or conduct. If we made it for conduct, you would not be able to apply for unemployment.

[E3410 x8539 Conf Room] 10:26:33

No. Quickly, can you clarify the BSE situation? Bse rotators. They're not included in this.

[E3410 x8539 Conf Room] 10:26:44

Okay. Unless you were in a trial period or you would have gotten an email. So VSEEs in general are not included. Yeah, so if many of us are handling stuff literally tens of millions of dollars that are in the next week or two we have to hand off to and need to know

[E3410 x8539 Conf Room] 10:27:02

As we hand that off, if part of our teams are still going to be here as we hand off. I mean, literally a panel next week on the point of contact.

[E3410 x8539 Conf Room] 10:27:11

Outside agreements, MOUs with the Paul G. Allen Foundation, the Kavli Foundation, tens of millions of dollars. I am the person who is the person. The rest of the team are rotators.

[E3410 x8539 Conf Room] 10:27:21

There's a lot of money at stake. So please, please work with your division leadership in identifying who, but as of right now, I understand that situation and I think we're going to find that in other places as well.

[E3410 x8539 Conf Room] 10:27:36

So please make sure that you're looping in your divisional leadership.

[E3410 x8539 Conf Room] 10:27:41

And I have 80 panelists who are signed up on the inside. In person, in the next three weeks. I know.

[E3410 x8539 Conf Room] 10:27:50

I know, I understand. And my email is going to go dead at one o'clock and they're going to say, where's that guy?

[E3410 x8539 Conf Room] 10:27:55

And also they need some help on how to communicate with these people about this, right? Because I won't, I won't go in, won't go and do anything crazy, but do I say to them Hey, things have changed. I know in this that the division leadership should do that, but I have two hours to handle all this stuff.

[E3410 x8539 Conf Room] 10:28:14

I appreciate your dedication, the mission. I genuinely do. Please coordinate with your supervisor.

[E3410 x8539 Conf Room] 10:28:23

Hi, could you answer my question about experts? And I'll just repeat it for the benefit of folks who are online and apparently the room was muted.

[E3410 x8539 Conf Room] 10:28:32

So the question is, you suggested or you said that you were taking this opportunity to terminate experts, which suggests that it was not a requirement to do so.

[E3410 x8539 Conf Room] 10:28:44

So I'd like your explanation about the rationale behind that. Thank you. That is correct.

[E3410 x8539 Conf Room] 10:28:51

That the removal of experts was completely at the agency's discretion.

[E3410 x8539 Conf Room] 10:28:56

Because if we're asked to remove probationers, then we also need to remove at-will employees.

[E3410 x8539 Conf Room] 10:29:03

So it's an issue of fairness in your mind. It's not just an issue of fairness but yes

[REDACTED] 0:29:15

All right, [REDACTED], we have an online question [REDACTED] If you'd like to ask a question.

[REDACTED] 10:29:25

Yeah, what is the process? So you said health insurance ends at the end of this pay period on Saturday.

[E3410 x8539 Conf Room] 10:29:39

I think you went mute on the rest of your question.

[REDACTED] 10:29:44

I don't have any control over the muting. So I'm going to say for the record that I have received no negative feedback about my performance have identified no issues with my performance. For that, I'm saving for the record.

[REDACTED] 10:29:59

But my question is, health insurance you said, ends at the end of the week.

[REDACTED] 10:30:04

You can extend to 31 days. Is that 31 days from the end of the week? And what is the process for applying for the extension?

[E3410 x8539 Conf Room] 10:30:12

So the extension is automatic and yes, it begins at the end of the week. So from Saturday, you will have a free automatic 31 day extension of health insurance coverage.

[E3410 x8539 Conf Room] 10:30:21

You're welcome.

[REDACTED] 10:30:21

Thank you. Also, I do want to say that you'll see a lot of [REDACTED] in this meeting. That's because I shared my link and then it got shared more widely. That's the only way most of the people in this meeting were able to join in here.

████████ 10:30:33

I am the real █████

[E3410 x8539 Conf Room] 10:30:39

████████ online, can you drop the link to the booklet for those that join late and may not have received it at first, please?

[E3410 x8539 Conf Room] 10:30:48

May I go? Yes. Can you explain why you haven't negotiated with the administration to eliminate the more expensive rotator program so that you could protect those of us that have given up our academic jobs. These people have jobs. You could reduce our force.

[E3410 x8539 Conf Room] 10:31:06

By unemploying no one. So have you negotiated that with the administration? Have you tried to save those of us that have given up our academic by dismissing those that have not.

[E3410 x8539 Conf Room] 10:31:19

There's no negotiation, first of all. And second of all, the administration has already announced its intention to significantly reduce the workforce.

[E3410 x8539 Conf Room] 10:31:27

It is only a matter of time. It is not today is not the only workforce reduction that we will do.

[E3410 x8539 Conf Room] 10:31:37

Before you ask your question, we do have someone monitoring Q&As and the Q&A online for you, █████. So if you drop your question in there, she can read that for you out loud. Just wanted to make that announcement for those of you online.

[E3410 x8539 Conf Room] 10:31:59

Again, with the sort of more mechanical our timesheets, time cards.

[E3410 x8539 Conf Room] 10:32:04

We need to get those in by 1. Correct. As long as your supervisor knows your hours for last week.

[E3410 x8539 Conf Room] 10:32:12

We will take your time cards. Okay.

[E3410 x8539 Conf Room] 10:32:18

I'm going to ask a mechanical question. I'm going to ask a little bit of a personal one. It's not really even a question.

[E3410 x8539 Conf Room] 10:32:25

But I know no other business that I've ever been associated with where somebody has walked in unexpectedly and just been fired in a matter of hours.

[E3410 x8539 Conf Room] 10:32:35

Not in a professional setting at all. You look around this room, these are people who have dedicated their lives either to their profession Similar to ones that you mentioned or you mentioned, excellent. Someone's dedicated 40 years to that Many of the people in this room have done that. They've dedicated their lives not only to their academic careers.

[E3410 x8539 Conf Room] 10:32:56

But also decided that what they wanted to do was better their country. They wanted to work for their country. And this was the most impactful way for them to do that.

[E3410 x8539 Conf Room] 10:33:04

So they made some sacrifices and they left. And to simply be said.

[E3410 x8539 Conf Room] 10:33:09

In a matter of minutes. Your service no longer matters regardless of what you may say. It matters not And we said that you were going to have this opportunity, but we're taking that away from you because of an administrative

[E3410 x8539 Conf Room] 10:33:25

Type of mandate. And I would still argue there's ways to There is ways to address that mandate and still have a more humanistic and a practical way of doing this.

[E3410 x8539 Conf Room] 10:33:37

There is no reason. I have many colleagues at federal agencies across the federal government And there's ways of doing this that gives people at least an understanding to digest this.

[E3410 x8539 Conf Room] 10:33:49

Before they go home, and I want you guys all to listen to this, when they go home to their families and say.

[E3410 x8539 Conf Room] 10:33:54

I've lost my job. My credibility with my peers for no reason.

[E3410 x8539 Conf Room] 10:34:03

For a mandate. And I didn't feel like the people that were here to support me In whatever reasons, my direct my divisional director, my associate director, all those people actually supported me i'm here Because I'm looking at waste, fraud, and abuse in some ways, not abuse or anything.

[E3410 x8539 Conf Room] 10:34:23

But to help optimize programs. That's my whole gig. I'm meeting a requirement of the federal government to look at

EXHIBIT C



U.S. National Science Foundation

DATE: February 18, 2025

TO: Andrew M. Frassetto, Program Director
Directorate for Geosciences

FROM: Starlisha Anderson, Acting Director
Division of Human Resource Management

SUBECT: Termination of Excepted Service Appointment

On September 8, 2024, you were hired on an Excepted Service appointment as an Program Director, in Directorate for Geosciences, at the U.S. National Science Foundation (NSF).

The purpose of this memorandum is to notify you that your employment will be terminated effective at the end of the business day on February 18, 2025. The Agency finds, based on your performance, that you have not demonstrated that your further employment at the Agency would be in the public interest.

You may choose to resign in lieu of being terminated. This decision may impact your rights and benefits. If you wish to resign in lieu of being terminated, please notify benefits@nsf.gov before 11:59 pm EST today, February 18, 2025.

NSF Property Turn-In: You are required to turn in your PIV badge, laptop, and all other government property in your possession. If you are onsite today, you must turn in your government property to your directorate or office point of contact. If you are not onsite, a prepaid box will be mailed to your address of record which you are required to use to immediately return such property. Until this has been done, any indebtedness that you have to the government will be offset by your salary check and/or retirement funds. If you have personal property onsite, and you are not able to retrieve it today, a representative of your directorate or office will pack and mail it to your address of record.

If you disagree with this decision, you may contest it in accordance with one of the following procedures. You may only choose one of these options, outlined below; and, whichever filing occurs first, will be considered your choice.

- a. Option – Merit Systems Protection Board (MSPB) on the limited grounds set forth in 5 C.F.R. § 315.806. Any such appeal must be filed within 30 days of the effective date of this decision or 30 days after the date of your receipt of this decision, whichever is later. You should review MSPB regulations at 5 C.F.R. §§ 1201.14 and 1201.24 for instructions on how to file an electronic appeal and content requirements of the appeal,



U.S. National Science Foundation

respectively. For more information, please visit www.mspb.gov or contact your local MSPB regional or field office at: <https://www.mspb.gov/about/contact.htm>.

- b. Option – Equal Employment Opportunity Program (EEO), Office of Civil Rights (OCR): If you believe this termination is being taken in whole or in part because of discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, and/or reprisal for prior EEO activity, you may file a discrimination complaint within forty-five (45) days of the effective date of this action. Questions concerning the EEO process may be referred to:

National Science Foundation
Office of Civil Rights
2415 Eisenhower Ave
Alexandria, VA 22314
Phone: (703) 292-8020
Email: eo@nsf.gov

- c. Option – Office of Special Counsel (OSC): If you believe this action is in retaliation for your making protected whistleblowing disclosures, you may also seek corrective action from the U.S. Office of Special Counsel (OSC). If you do so, your appeal may be limited to whether the Agency took one or more covered personnel actions against you in retaliation for making protected whistleblowing disclosures, and you will not be able to challenge the decision on other bases in that action. To seek corrective action from the OSC, you may submit your complaint online. More information on or about filing a complaint with the OSC may be found at <https://osc.gov/Pages/File-Complaint.aspx>. As an alternative, you may communicate in writing to the following address:

Complaints Examining Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036-4505

We appreciate your service to the Agency and wish you the greatest success in your future endeavors. If you have any procedural questions regarding this action, you may contact the Workforce Relations Branch at workforceRelations@nsf.gov.

Starlisha Anderson
Acting Director, Division of Human Resource Management
Office of Information and Resource Management